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Remarks

I.   Status of claims

Claims 1-20 were pending. Claims 21-27 have been added.

II.   Objections to abstract

The abstract has been amended to address the Examiner's concerns. The Examiner's objections to the abstract now should be withdrawn.

III.   Claim rejections under 35 U.S.C. § 102(e)

The Examiner has rejected claims 1, 3-14, 16, and 19-20 under 35 U.S.C. § 102(e) over Giese (U.S. 6,621,895).

A.   Independent claim 1

Giese teaches that his Enhanced Communication Services (ECS) layer 6 is located between the content application layer 4 and a transport services layer 8 (see FIG. 1). In the content application layer 4, a content application generates the payload data for a service instance and an application session 18 handles "transmission of payload data between communicating parties 16, independent of underlying technology in the ECS and transport services layers 6, 8" (col. 9, lines 30-32). Giese's ECS layer 6 is concerned with bridging the gap between content applications and network transport sessions (see, e.g., col. 8, lines 53-58) so that "content providers ... will be able to build content solutions that can operate over any communication infrastructure" (col. 7, lines 30-33). The object of Giese's invention is to maintain a clear separation between the functionality of the application layer 4, the ECS layer 6, and the transport services layer 8 (see, e.g., col. 3, lines 43-46; FIG. 1; and col. 9, lines 11-41).

Throughout his disclosure, Giese is not concerned with the format of the payload data in the application layer 4 because his ECS layer 6 and the underlying transport services layer

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8 operate independently of the payload data format. For this reason, Giese is silent about the way in which the content application communicates with other application layer components and the way in which the content application produces the payload data. For example, Giese does not specify how a device requests a service deliverable from a content application, nor does Giese specify what format the service deliverable is in after it is produced by the content application.

Thus, Giese does not teach anything about the format of a given request-for-service call nor anything about the format of a service deliverable that is produced in response to the given request-for-service call. For this reason, one of ordinary skill in the art at the time of the invention, would not have been led to the inventive system now recited in claim 1 in which an agent receives request-for-service calls in any format selected from a voice format, an internet format, an e-mail format, and a wireless format and transmits a request-for-service call to the access file in accordance with a hypertext transfer protocol for each of the received request-for-service calls. Nor would a person of ordinary skill in the art have been led to conceive of a system having at least one service module that performs a prescribed function to produce a service deliverable requested in the given request-for-service call and that passes one or more control parameters and the service deliverable to a communication module in accordance with a hypertext transfer protocol, as recited now in claim 1. Furthermore, a person of ordinary skill in the art also would not have been led to conceive of a system having a communication module that transmits the service deliverable received from the at least one service module to a destination network node specified in the given request-for-service call in any format selected from a voice format, an internet format, an e-mail format, and a wireless format, as now recited in claim 1.

The Examiner has identified Giese's contact agent 10 as an origination agent that transmits a request-for-service call. Giese, however, does not teach or suggest that the contact agent 10 is operable to receive request-for-service calls in any format selected from a voice format, an internet format, an e-mail format, and a wireless format, as now recited in claim 1. Giese's contact agent 10 receives calls from content applications, but Giese does not teach or suggest anything about the format of such communications. Indeed, Giese's only description of the communications between a content application and the contact agent 10 as follows (col. 11, lines 32-36):

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> A service instance is typically initiated by a content application
> passing a party identifier of the originating party 16a (FIG. 3),
> and one or more codes specifying the originating party's
> communication goals (i.e. the application session requirements)
> to the Contact Agent 10 (See FIG. 4).

Giese does not even hint that the party identifier may be transmitted to the contact agent 10 in any format selected from a voice format, an internet format, an e-mail format, and a wireless format.

Giese also does not teach or suggest that the contact agent 10 is operable to transmit a request-for-service call to an access file in accordance with a hypertext transfer protocol for each of the received request-for-service calls, as now recited in claim 1. Giese teaches that the contact agent 10 transmits originating and receiving party profiles to the exchange agent 12. However, the only disclosure in Giese regarding the format of communications between the contact agent 10 and the exchange agent 12 is as follows (col. 11, lines 58-64):

> Application session requirements are converted by the Contact
> Agent 10 into one or more communication primitives. A
> communication primitive is a high-level interface language,
> agent based or high level Application Program Interface (API),
> that is used to request communication services. The language
> articulates requirements regarding how information bits are to
> be moved and in what format.

There is no hint in this disclosure that would have led one of ordinary skill in the art at the time of the invention to structure communications from the contact agent 10 to the exchange agent 12 in accordance with a hypertext transfer protocol.

The Examiner also has identified Giese's exchange agent 12 as a service module that produces a service deliverable in accordance with a request-for-service call. As explained above, however, in Giese's approach, the service deliverable is produced by a content application operating in the application layer 4, which purposely is separated from the ECS layer 6 in which the exchange agent operates. Giese teaches that the role of the exchange agent 12 is "to establish and manage end-to-end transport of payload data between the involved parties" (col. 12, lines 33-35). That is, the exchange agent 12 does not produce any payload data. Instead, the exchange agent 12 merely selects for each service instance "a best match set of transport services for the service instance" (col. 3, lines 63-64). According to Giese, the exchange agent 12 includes (col. 4, lines 50-57):

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> a service management portion adapted to select a respective
> best match end-point device for each party involved in the
> service instance; a directory services portion adapted to resolve
> a physical address on the network corresponding to each
> selected end-point device; and a session control portion adapted
> to select, from the network space, a best match set of transport
> services for end-to-end connectivity between the selected end-
> point devices.

None of the portions of the exchange agent 12 produces payload data, contrary to the Examiner's assertion. Accordingly, Giese does not teach or suggest that the exchange agent 12 performs a prescribed function to produce a service deliverable requested in the given request-for-service call, as now recited in claim 1.

In addition, Giese does not teach or suggest that the exchange agent 12 is operable to pass one or more control parameters and the service deliverable to a communication module in accordance with a hypertext transfer protocol, as now recited in claim 1. Giese teaches that the exchange agent 12 interacts with the transport agent 14 using network primitives (see col. 16, lines 9-11). Giese describes the nature and function of such network primitives at col. 16, lines 28-62. Nowhere in this description, however, does Giese even hint that the exchange agent 12 passes one or more control parameters and a service deliverable to the transport agent 14 in accordance with a hypertext transfer protocol.

The Examiner has identified Giese's transport agent 14 as the communication module recited in claim 1 as originally filed. Claim 1, as amended, recites that the communication module receives a service deliverable in accordance with a hypertext transfer protocol and transmits the service deliverable to the destination network node specified in the given request-for-service call in any format selected from a voice format, an internet format, an e-mail format, and a wireless format. Giese teaches that the transport agent 14 is (col. 4, line 64 – col. 5, line 6):

> adapted to engage, from the transport services layer, a best
> match set of transport media to accomplish end-to-end transport
> of the payload data of the service instance, and comprising: a
> directory services portion adapted to determine a best-match
> route for end-to end connectivity across the communication
> network; and a session control portion adapted to engage, in the
> transport services layer, transport services layer devices
> corresponding to the best-match route.

Giese also teaches that (col. 14, line 57 – col.15, line 17):

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Like the Exchange Agent 12, the Transport Agent 14 provides network functions, and is divided into functional partitions providing the following services: Transformation Services 38, Service Management 40, Directory Services 42, Session (Communication) Control 44 and Brokerage 46 (See FIG. 8). However, in the Transport Agent 14, functionality is path associated. Path associated functions allow services to carry out end-to-end communication using path level abstractions.

Exemplary path associated functionality in each partition is as follows: Transformation 38 includes path edge conditioning and proxy clients. Path edge conditioning consists of the control adaptation, message generation and message interpretation required for inter-working between external systems and the ECS layer 6. Proxy clients adapt non-conformant legacy external systems (such as PSTN POTS) so that they can utilize the capabilities of the ECS layer 6. Service Management 40 consists of service configuration, account and policy management. Network management is just another service, albeit a privileged one, that is substantially automated through contracts as will be described below in more detail. Directory Services 42 encompass route selection and interoperability resolution for equipment and services in the communication path. Session Control 44 provides path session activation mechanisms. Brokerage services 46 enable selection of end-to-end communication paths of the appropriate qualities-of-service and provides assembly of contract details for the enhanced sub-layer.

Nowhere in Giese's disclosure does Giese teach or suggest that the transport agent 14 receives a service deliverable in accordance with a hypertext transfer protocol, and transmits the service deliverable to the destination network node specified in the given request-for-service call in any format selected from a voice format, an internet format, an e-mail format, and a wireless format. Indeed, the transport agent 14 only engages the set of transport services selected by the exchange agent 12 at the level of the network services layer 8. This process involves adaptations and transformations at the hardware (e.g., node and switch) level to control "the physical movement of the payload data" (col. 9, line 38). The actual application layer format of the payload data is not affected by the transport agent 14.

For at least the reasons explained above, the Examiner's rejection of independent claim 1 under 35 U.S.C. § 102(e) over Giese now should be withdrawn.

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B.   Claims 3-14, 16, and 19-20

Each of claims 3-14, 16, and 19-20 incorporates the features of independent claim 1 and therefore is patentable for at least the same reasons explained above.

IV.   Claim rejections under 35 U.S.C. § 103(a)

The Examiner has rejected claims 2 and 15 under 35 U.S.C. § 103(a) over Giese. Each of claims 2 and 15 incorporates the features of independent claim 1 and therefore is patentable over Giese for at least the same reasons explained above.

For the purpose of the following discussion, the examiner is reminded that:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not on applicants' disclosure.

MPEP § 706.02(j) (emphasis added). Furthermore, as pointed out by the Patent Office Board of Appeals and Interferences:

> The examiner should be aware that "deeming" does not discharge him from the burden of providing the requisite factual basis and establishing the requisite motivation to support a conclusion of obviousness.

Ex parte Stern, 13 USPQ2d 1379 (BPAI 1989).

The Examiner has asserted that:

> As per claims 2 and 15, Giese teaches the invention substantially as claimed in claim 1. Giese does not specifically teach the origination agent is configured to transmit the request-for-service call in accordance with a hypertext transfer protocol (http). However, it would have been obvious to a person of ordinary skill in the art at the time the invention was

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made to utilize http format in Giese's system because http is a
well-known protocol in the art for transmitting documents over
network. One of ordinary skill in the art would have been
motivated to modify Giese's system with http format based on
specific design requirements.

The modification of Giese's system proposed by the Examiner, however, would not
render obvious the inventive system now recited in claim 1. The Examiner's proposed
modification would result in the use of Giese's system to transmit documents over a network
in accordance with http. As explained in detail above, however, Giese's system does not
include any one of the agent, the access file, and the communication module as described in
claim 1. In addition, Giese does not teach or suggest anything relating to anyone of the
following application layer features in claim 1:

- receiving request-for-service calls in any format selected from a voice format,
  an internet format, an e-mail format, and a wireless format;
- transmitting a request-for-service call to the access file in accordance with a
  hypertext transfer protocol for each of the received request-for-service calls;
- producing a service deliverable requested in the given request-for-service call;
- passing one or more control parameters and the service deliverable to the
  communication module in accordance with a hypertext transfer protocol; and
- transmitting the service deliverable received from the at least one service
  module to the destination network node specified in the given request-for-
  service call in any format selected from a voice format, an internet format, an
  e-mail format, and a wireless format.

For at least these additional reasons, the Examiner's rejections based on this line of
reasoning now should be withdrawn.

In addition, the Examiner has failed to provide the requisite factual basis and failed to
establish the requisite motivation to support her deemed conclusion that the features
originally recited in claims 2 and 15 would have been obvious to one of ordinary skill in the
art at the time of the invention. The Examiner merely asserts without any basis that the
features originally recited in claims 2 and 15 are an obvious matter of design choice. The
Examiner is requested to cite prior art in support of her assertions. Alternatively, if the
Examiner is aware of facts within her personal knowledge that provide the requisite factual
basis and establishes the requisite motivation to support her deemed conclusion that the

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features originally recited in claims 2 and 15 would have been obvious, the Examiner is requested to provide an affidavit in accordance with 37 CFR § 1.104(d)(2). Otherwise, the Examiner's rejection of claims 2 and 15 should be withdrawn for this additional reason.

V.   Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

Date: February 6, 2004

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